DOCUMENT RESUME

ED 352 659 CS 213 618

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TITLE The Classroom Trial of "Tess of the D'Urbervilles": A Way to See, Speak, Hear, and Live a Persuasive Essay.
PUB DATE Mar 92
NOTE 8p.; Paper presented at the Annual Meeting of the Conference on College Composition and Communication (43rd, Cincinnati, OH, March 19-21, 1992).
PUB TYPE Guides - Classroom Use - Teaching Guides (For Teacher) (052) -- Speeches/Conference Papers (150)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS Class Activities; Higher Education; *Literature Appreciation; *Persuasive Discourse; Role Playing; *Simulation; Undergraduate Students; Writing Assignments
IDENTIFIERS *English Literature; Mock Trials; Response to Literature; *Tess of the D Urbervilles; University of Nebraska Lincoln; Writing Contexts

ABSTRACT

Courtroom scenes in literature seem to have a special magic with students (probably because of all the trials seen on television, fiction or non-fiction). Students in a composition and literature course at the University of Nebraska, after reading Thomas Hardy's "Tess of the D'Urbervilles," wrote "closing arguments" for either the prosecution or the defense in the trial that was omitted from the novel. Students were then told to come to class ready to argue either position. They were randomly divided into defense and prosecution teams, collaborated on an opening statement, and presented that statement to the "judge," the instructor. The teams then cross-examined one another. The novel, which so many of them had disliked and found dense, became a nimble tool in their hands. The two sides met again, then gave their final arguments. No decision was given by the "court." Overall, the response to the trial and the assignment was powerfully positive. (RS)

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The Classroom Trial of "Tess of the D'Urbervilles": A Way to See, Speak, Hear, and Live a Persuasive Essay

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Deconstruct "Tess" slightly.

While most every moment, thought, and even historical notion is explained in sometimes excruciating detail, you'll discover that Tess' trial for slicing the evil Alec in the inn is never shown. We see the capture at Stonehenge and the signal flag go up from the prison after she is executed, but we never see anything of the courtroom scenes. Instead of thinking of this as some sort of gaffe on Hardy's part, we should see it as what it must be, a purposeful omission. Having done so, we can take advantage of Hardy's choice for exclusion for our writing students.

The basic technique of creating classroom exercises, and experiences, out of assigned literature holds many rewards. Courtroom scenes seem to have a special magic with students. It may be because of all the trials they see on television, fiction and non-fiction. If that is true, playing out the new, but familiar roles may give the students the invigoration to think critically on their own, just as they have had to in private while watching, but not participating in, the Law. A smaller trial has been held for Margot Macomber, for Ernest Hemingway's "the Short Happy Life of Francis Macomber," in my classes at Nebraska and, before that, at the University of Cincinnati. One trial of Margot I remember well was witnessed by Jim Berlin who was then Director of Freshman English before moving on to Purdue. As he could bear out, the class read the story, saw diagrams of the "murder" scene displayed on the board and, using chairs and my desk, in the

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room, discussed and argues the evidence from the story's "eye" witnesses. The vote, though, was all their own. A few voted for Margot being guilty and about the same number said she was innocent. Most of the class declined to say either. I began to fear that the whole endeavor had failed when one of the students explained that, as she saw it, Margot had aimed for the buffalo through Francis' head. In her words, which immediately became the class' verdict by acclamation, Margot was guilty of shooting for a "two-for-one sale". The students had come up with their own reading and, with the help of this played scenario, found a way to add their own category and, so, their own answer to the eternal puzzle of this Hemingway masterpiece.

This new assignment using "Tess of the D'Urbervilles was first done last Spring semester in an English 102 course of mine at the University of Nebraska-Lincoln. To give you something of a context for this assignment, English 102 is a Composition and Literature course in which all of the readings must be full length pieces and the selection must include at least one play, one narrative poem, and one novel. The students are to write at least 7,500 words in exercises, Journals, and essays. In case you are wondering, there is an English 101 made up of short stories, poems, and essay, but these two courses are not in any sort of sequence and the instructors for each pick their own reading list.

Before this particular assignment, my students had read and written on "Oedipus the King," "Gawain" and "The Green Knight", "Henry V" and "Midsummer Night's Dream". They had two more novels, "For Whom the Bells Toll" and "The Color Purple", still to go. Their assignments had covered topics like the qualities of good leaders,

promises that might be broken, and successful romances. For this persuasive essay assignment based on "Tess", my students had to write the closing argument for either Tess' prosecutor or defender. They were told that, because of the uproar and publicity sparked by the scandalous nature of the crime, as papers of the time surely would have railed, the trial was not being held in normal public session. The prosecution and defense advocates would not be making their usual oral final arguments because the court feared they would only incite the listeners. Instead, their final arguments were being written out for distribution. From that, we had our simulated situation for a writing assignment.

But we also had our context for what turned into an extraordinary class discussion. Instead of discussion, I should like to turn jargon-ish and, coin the term if it has not yet been turned coin, call this a class interaction. I had told the members of the class to bring their notes with them for a review of the opposing sides. An important point, repeatedly made from the moment the assignment was given out, was that they had to know their side of the argument and their opposition. As a good advocate, they would have to also be able to knock down their learned opponent's positions.

When they came in and sat down round the walls of our large room, basically in their favorite U-shaped formation, I had them count off "1"-"2" round the room. Then, without having given them any prior warning, they were arbitrarily split into two groups, the defense and the prosecution. Since they had to know each sides' views, they were told to prepare for whatever side Fate had made them. Like Plato's "Good" rhetorician, the aim here was in speaking well, not necessarily

in believing what was said.

After they had a few minutes to each collaborate and organize an opening statement, the groups sent representatives to a lectern in the middle of the room to present an opening argument to the court and to the judge, which was me. Once the statements, with their evidence, examples, and rationale were given, the sides proceeded to cross examine each other. In doing so, some of the most amazing things happened.

For example, the novel, which so many of them had disliked and found dense, became a nimble tool in their hands. Students/advocates dueled back and forth over Alec's "alleged" attack on Tess, the meaning behind Hardy's indirect descriptions of the event, her subsequent treatment by him, her abandonment by Angel Claire, Alec's lies about Angel, and, most of all, the cumulative affect of her life on Tess's mental faculties. In this debate, the novel suddenly became a set of specific references, pages to quote from, and description to use, not be overpowered by, as a "Reader." After the two sides again met and gave their final arguments, court was adjourned so as to let each officer of the court decide and articulate his or her own verdict in their essay.

If you are wondering, there was no jury and no verdict was ever meant to be given in out Court of Literature. I wanted all the students involved in playing out their roles within the assignment and experience some semblance of the audience that they were also assigned to be writing to in their essay. The class was surveyed, with their name always as an optional "answer", twice; first very soon after the trial had gone over so well and after the entire assignment sequence

was over, included the essays returned with grades. One question dealt with not having a jury. While their overall support of having no jury was not universal, the comments of the majority can be summed up by this one reply; "by having it undecided, we could still write out papers without any specific right or wrong answer- It is hard to defend someone if their guilt is already decided." Even though we knew what happened to Tess in our books, our judgments were still open. As for those who would have liked a jury, one made an addition suggestion: "I think a jury would have added a lot to the trial. Especially if the jurors consisted of people who hadn't read the book so that they could make fair and honest judgement."

As for having to play either role by arbitrary choice, it had some effect on what some of the students believed. In fact one student said that he/she "changed my opinion about Tess about 5 or 6 times during class." But, for most respondents, the trial actually strengthened their opinion because, as one put it, the trial "showed more actual interpretation of evidence."

Overall, the response to the trial and the assignment was powerfully positive. "I still think this was an exceptional way to discuss 'Tess'". And, if I may note, that student underlined "Tess" so she meant the book, not just the character. In a Journal entry, and not one that was assigned but one like those done by at least eleven of the 26 members of the class who elected to write on their own, written just after the trial, another student opened with: "I became intimate with the book "Tess". It was a good book." A classmate of her wrote in his Journal "This class was most impressive (forgive him, he has lived in California)... and during class, I don't

know, I was enlightened."

Another said on a survey; "It was great. It helped me focus on what I had to do and helped me get a better grade. (I hope this doesn't sound too much like something to be sold on a late night infomercial) Of course, I think this was a very special class. One, in his last comment on the final survey told me: "I would like to discuss the possibility of royalty collection when you get this published in a national journal." Yes, that was from a Freshman.

And what did these freshmen, these writing students gain from the assignment? They had evidence to analyze. Hardy's language and the cultural contexts were both ally and enemy for them. They had an opposing viewpoint to deal with and this time the opposition was not a rhetorical question from the instructor or a footnote in the text but the arguments of their own classmates. They had a specific audience and, ironically, the dual manifestation of that audience in both the judge and their opposing council. They had eyes and expressions and tones of voice instead of thicknesses of ink to respond to and convince. They had each other in the defense or prosecution teams even if, when the individual essays were written, their "votes" were not the same. It was almost as if having the chance to anticipate your adversary by having some of its players on their own thinking, and articulate it. They had to simulate a decision of guilt or innocence that would lead to life or death, but they also had the tools by which to take on that responsibility and make it their own.